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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/684,177      | 10/10/2003  | Joseph Nuzzarello    | RM515a              | 2633             |

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EXAMINER

HARRIS, STEPHANIE N

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3636     |              |

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/684,177

Applicant(s)

NUZZARELLO, JOSEPH

Examiner

Stephanie Harris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-9 is/are allowed.
- 6) ☒ Claim(s) 1,2,10-14 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.                                                |

### **DETAILED ACTION**

This application discloses and claims subject matter disclosed in prior Application No. 10/004,040. Accordingly, this application is acknowledged as a continuation Application No. 10/004,040.

#### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Bray (USPN 604347).

Bray discloses a bicycle seat comprising a seat mounting assembly suited on a T-shaped support bar (7) for attachment to a bicycle as seen in Figure 2 (Lines 27-30). A left and a right seat member, each have a forward/rearward pivot mount assembly means (16, 17) as a part of the seat mounting assembly. The pivot assembly can function to provide a spring biased pivot axis for each of the seat members on the bar. The forward/rearward pivot mount assembly means is part of the seat mounting assembly. The forward/rearward pivot mount assembly means functions to provide a spring biased pivot axis for each seat member on the T-shaped support bar as seen in Figure 3 and 5. Each forward/rearward pivot mount assembly means has an independently adjustable spring, which resists a rider's downward force on the respective seat member as seen in Figure 2 (Lines 72-79).

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Regarding claim 2, the left and right seat members are each independently adjustable along a horizontal member of the T-shaped support bar to accommodate proper buttock spacing dependent on the anatomy of the rider (Lines 89-94).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 16, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bray (USPN 604437) in view of Erani (USPN 4512608).

Bray has been described above. Bray shows all of the teachings of the claimed invention but fails to show the use of a round padded seat. Erani discloses round padded seats (80, 82) as seen in Figure 1 (Col. 4, line 67- Col. 5, line 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seats of Bray, with the round padded seats as shown by Erani, in order to provide comfortable support for the user's buttocks.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bray in view of Hall (USPN 6302480).

Bray has been described above. Bray shows all of the teachings of the claimed invention but fails to show the use of a spring tension adjustment mechanism on the

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free ends of the support bar. Hall discloses a spring tension adjustment mechanism (15) with knobs (16) on the free ends of the support bar (5) as seen in Figure 10a (Col. 6, lines 1-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support bar of Bray, with the spring tension adjustment mechanism as shown by Hall, in order to allow the user to adjust the spring tension to the user's tastes.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bray in view of Erani in further view of Hall (USPN 6302480).

Bray in view of Erani has been described above. Bray in view of Erani shows all of the teachings of the claimed invention but fails to show the use of a spring tension adjustment mechanism on the free ends of the support bar. Hall discloses a spring tension adjustment mechanism (15) with knobs (16) on the free ends of the support bar (5) as seen in Figure 10a (Col. 6, lines 1-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support bar of Bray in view of Erani, with the spring tension adjustment mechanism as shown by Hall, in order to allow the user to adjust the spring tension to the user's tastes.

#### ***Allowable Subject Matter***

Claims 3, 4, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5-7, 8, and 9 are allowed.

### ***Response to Arguments***

Applicant's arguments filed on 10/10/03 have been fully considered but they are not persuasive.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to applicant's argument based upon the age of the references, contentions that the reference patents are old are not impressive absent a showing that the art tried and failed to solve the same problem notwithstanding its presumed knowledge of the references. See *In re Wright*, 569 F.2d 1124, 193 USPQ 332 (CCPA 1977).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to bicycle seats: US006402235B1, US006183043B1, US006357825B1, USPN 4387925, USPN 4451086, and USPN 694875.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday-Friday from 9am to 3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SNH

March 19, 2004

Stephanie Harris  
Examiner  
Art Unit 3636

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600